

COAL TAX OVERSIGHT SUBCOMMITTEE

REPORTS:

PLEASE RETURN

A REVENUE SYSTEM IN TRANSITION:

MONTANA'S MOVEMENT TOWARD LOWER COAL

SEVERANCE TAX RATES

and

ENHANCING THE IN-STATE INVESTMENT

PROGRAM

October, 1990

STATE DOCUMENTS COLLECTION

JAN 8 1991

MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

Prepared by



Montana Legislative Council

Montana Legislative Council
State Capitol, Room 138
Helena, Montana 59620
(406) 444-3064

MONTANA STATE LIBRARY
S 328.3 L13rst 1990 c.1 Verdon
Coal Tax Oversight Subcommittee reports



3 0864 00070436 4

MEMBERSHIP:
COAL TAX OVERSIGHT SUBCOMMITTEE

Sen. John H. Anderson, Jr.
Chairman

Rep. Marian W. Hanson
Vice Chairman

Sen. Richard E. Manning

Rep. Gene DeMars

Committee Staffer: Paul E. Verdon, Researcher

Published by
Montana Legislative Council

Robert B. Person, Executive Director
Gregory J. Petesch, Director, Legal Services
David D. Bohyer, Research Director

TABLE OF CONTENTS

A REVENUE SYSTEM IN TRANSITION: MONTANA'S MOVEMENT TOWARD LOWER COAL SEVERANCE TAX RATES	1
RESPONSIBILITIES OF THE COAL TAX OVERSIGHT SUBCOMMITTEE	3
INTERIM ACTIVITIES OF THE COAL TAX OVERSIGHT SUBCOMMITTEE	5
SHORT-TERM COAL MARKET PROMISES LITTLE REVENUE ENHANCEMENT	7
THE RISE AND FALL OF MONTANA'S COAL SEVERANCE TAX RATES	9
CHRONOLOGY OF MONTANA COAL TAXATION RATES	12
MONTANA COAL SEVERANCE TAX COLLECTIONS	14
ALLOCATIONS OF COAL SEVERANCE TAX PROCEEDS AS PROVIDED IN SECTION 15-35-108, MONTANA CODE ANNOTATED	15
COAL PRODUCTION AND EMPLOYMENT SINCE ENACTMENT OF SEVERANCE TAX	16
EMPLOYMENT BY OCCUPATIONS IN COAL INDUSTRY IN MONTANA 1987	17
ENHANCING THE IN-STATE INVESTMENT PROGRAM	19
INTRODUCTION	21
RECOMMENDATION	23
WIDENING THE ACCESS TO THE IN-STATE INVESTMENT PROGRAM	25
LC 15 Analysis	26
Findings of the Coal Tax Oversight Subcommittee	28
APPENDIX A	29

**A REVENUE SYSTEM IN TRANSITION:
MONTANA'S MOVEMENT TOWARD LOWER
COAL SEVERANCE TAX RATES**

A Report to the
Revenue Oversight Committee
from the
Coal Tax Oversight Subcommittee

Prepared by Paul E. Verdon, Staff Researcher

Montana Legislative Council
Room 138, State Capitol
Helena, MT 59620

October, 1990

**RESPONSIBILITIES OF THE
COAL TAX OVERSIGHT
SUBCOMMITTEE**

Montana Code Annotated

5-18-203. Powers and duties of subcommittee. (1) The coal tax oversight subcommittee may:

(a) review the programs financed by coal severance tax funds; and

(b) consider any matters relating to coal taxation.

(2) The subcommittee shall:

(a) report and make recommendations to the revenue oversight committee; and

(b) prepare for each regular session of the legislature a report on potential uses of the coal tax trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present and future generations of Montanans while maintaining and improving a clean and healthful environment as required by Article IX, section 1, of the Montana constitution.

**INTERIM ACTIVITIES
OF THE
COAL TAX OVERSIGHT SUBCOMMITTEE**

During the 1989-90 interim, in compliance with its statutory charge, the Coal Tax Oversight Subcommittee conducted four meetings in the Capitol and made one field trip to tour coal- producing areas and facilities.

The meetings in the Capitol consisted principally of receiving reports from agencies supported wholly or partially by coal severance tax funds on the uses of those funds and on the prospect of future needs.

The purposes of the field trip were to:

- ¶ inspect a portion of Montana Highway 314 between Busby and Decker, an important segment of the coal area road network, a project being financed principally with coal severance tax money;
- ¶ observe operations in existing strip mines;
- ¶ travel over the route of a proposed railroad through the Tongue River Valley that would shorten by 150 miles the haul distance of Montana coal from the Decker area to midwest markets and substantially improve the competitive position of Montana producers;
- ¶ visit the site of a proposed new underground mine in the Bull Mountains and to become informed about the prospects for development of new foreign markets; and
- ¶ afford an opportunity for a member who had not previously

observed operations of a coal-fueled electric generating plant to inspect such a facility.

**SHORT-TERM COAL MARKET
PROMISES LITTLE
REVENUE ENHANCEMENT**

Iraq's invasion of Kuwait sent oil prices through the roof, and the resulting crisis cloaks the energy industry in uncertainty as 1990 nears its end.

These international tensions combined with the competitive pressures that have long afflicted Montana coal producers make even more cloudy than usual the horizons toward which the state looks to assess the prospects for its energy-based revenue.

Of immediate import to Montana's fiscal forecasters is the fact that on next July 1, the maximum coal severance tax rate will drop a full 25 percent from the present level. After that date, the tax rate will have been halved from four years earlier.

The obvious and inescapable conclusion is that Montana must gird itself to accept a very substantial cut in revenue from coal.

This fact does not detract, however, from the confidence of the members of the Coal Tax Oversight Subcommittee that the severance tax will continue to provide substantial income for the state. The basis of this confidence is the success of Montana's mines in producing and marketing greater volumes of coal in recent years, to some degree attributable to lower tax burdens on the buyers. This accomplishment promises continued expansion of markets and production as well as retention of present customers through renewal of expiring contracts.

Other hopeful prospects for the state include opening of new markets, development of new mines, improvement and extension of transportation networks to reduce the largest of the three elements--contract sale price, taxes, and transportation--of coal prices to midwest and eastern utilities,

discovery and perfection of new products derived from coal, heightened demand for Montana coal to comply with federal acid rain and clean coal legislation, and refinement of techniques to beneficiate Montana coal by removing moisture and mineral impurities.

These prospects engender hope that coal will become an even more important segment of Montana's economy. For the short term, however, the state's fiscal planners must accept the fact that coal severance tax revenue will not soon again approach the levels of the mid-1980s.

Optimism must prevail, but reality says that time, patience, perseverance, and marketing effort are needed now.

THE RISE AND FALL OF MONTANA'S COAL SEVERANCE TAX RATES

The Coal Tax Oversight Subcommittee, in its continued monitoring of the activities in the coal industry during the last half of the 1980s, observed phenomena which became more strikingly apparent when the effect of legislation passed in the 1987 session was felt.

The impact was manifested in a diminution of the cash flow from a significant source of revenue--a diminution that will become even more apparent in the immediate future as the final stage of the coal severance tax reduction is implemented.

Regardless of the merits of the scaling down of severance tax rates, those cuts are contributing to a continuing erosion of the financing for important state and local services. Without replacement of that funding from other sources, Montana citizens will soon experience a noticeable reduction in a variety of those services.

The effort to modify or eliminate Montana's coal severance tax did not bear fruit until a full decade after the enactment of the 30 percent maximum rate in 1975.

The first crack in the tax came in 1985 when the Legislature provided an opportunity for producers and utility purchasers to qualify for credits against coal severance tax payments with the enactment of the New Coal Production Incentive Tax Credit. That first step led to an even longer stride in 1987 when the Legislature approved reductions in basic rates to be achieved in decrements over four years.

With the final step-down in the severance tax rate impending on July 1, 1991, the impact of those changes is emerging in sharply declining tax

collections--down approximately 38 percent from 1985 to 1990--with concomitant shrinkage in the allocations to the statutory beneficiary agencies and with heavier burdens upon other taxpayers caused by a diminishing residue available to the general fund for appropriation.

Accompanying the declining severance tax rates were higher levels of production in recent years. Output rose about 12 percent from 1986 to 1989.

But the increases in production tended to be offset by a downward trend in the market price for coal during the late 1980s, that with lower tax rates combined to lessen total proceeds of the tax.

Employment in the coal industry in recent years has followed a declining trend despite the increase in production. The most recently available statistics show total number of workers in Montana decreased about 17 percent from 1986 to 1989.

Except for the 50 percent deposit in the permanent trust mandated by the Constitution, other percentage allocations of coal severance tax proceeds set by statute are subject to revision each time the Legislature meets. In fact, during every regular session and during at least two special sessions since 1975 the division of the stream of income was adjusted to answer perceived needs for money to finance services for the people of the state.

The most recent distribution change occurred on July 1, 1990, when the share previously allocated to the Education Trust Fund was diverted directly to equalization aid for public schools.

A major shift in allocations on July 1, 1993, will eliminate the 12 percent off-the-top share going to the Highway Reconstruction Trust Fund, the largest current allocation other than the share dedicated to the permanent trust. Unless the Highway Reconstruction Trust Fund allocation is renewed by the 1991 or the 1993 Legislature, money available to continue Montana's

highway improvements will be sharply reduced.

The highway program might be considered a loser in that situation, but unless the Legislature acts to redistribute the highway share, the general fund and the other agencies and programs presently designated as recipients of coal tax shares will gain directly from the highway loss.

The options and alternatives inherent in these situations present challenges and opportunities to the Legislature and to the people of Montana. The future of the state may be determined to large extent by Montanans' response.

CHRONOLOGY OF MONTANA COAL TAXATION RATES

- 1921 Coal mines license tax of five cents per ton enacted.
- 1939 First 50,000 tons of a mine's annual production exempted from the coal mines license tax.
- 1967 The application of the coal mines license tax limited to strip mines only.
- 1967 Licensee allowed to claim a credit against the coal mines license tax of one-half of the reasonable value of reclamation work performed on strip-mined land.
- 1971 Credit for on-site reclamation work limited to a maximum of one cent per ton on the coal mined, the amount of coal exempt from taxation annually reduced to 5,000 tons, and the tax rate revised to four cents per ton, 6,000 Btu or less per pound of coal; six cents per ton, 6,001 to 7,500 Btu per pound; eight cents per ton, 7,501 to 9,000 Btu per pound; and 10 cents per ton, over 9,000 Btu per pound.
- 1973 Tax credit for on-site reclamation work removed and the tax rate increased to 12 cents per ton, 7,000 Btu or less per pound; 22 cents per ton, 7,001 to 8,000 Btu per pound; 34 cents per ton, 8,001 to 9,000 Btu per pound; and 40 cents per ton, over 9,000 Btu per pound.
- 1975 Coal removed from application of the tax on net proceeds of mines and made subject to gross proceeds tax under the property tax system. A graduated severance tax imposed on coal, applicable to any producer who produces 5,000 tons or

more during a quarter-year, ranging up to 30% of value for strip-mined coal of more than 9,000 Btu per pound and up to four percent of value on underground-mined coal.

1977 The exemption from the coal severance tax revised to apply to the first 20,000 tons of production each year.

1983 The exemption from the coal severance tax increased to 50,000 tons a year but a person who produced more than 50,000 tons a year was required to pay severance tax on all production over 20,000 tons.

1985 A New Coal Production Tax Credit Incentive of 33 1/3 percent of tax due allowed on incremental coal produced and purchased under an existing agreement that was extended between Jan. 1, 1985, and June 30, 1987, for at least five years or under a new agreement that was executed between Jan. 1, 1985, and June 30, 1987.

1987 The coal severance tax reduced to a maximum of 25 percent in fiscal year 1990 and to a maximum of 20 percent after June 30, 1991, with the following maximum tax rates contingent upon the production and sale of 32.2 million tons of coal (the average of annual production for calendar years 1983 through 1986) during fiscal year 1988:

- 25 percent during fiscal 1989 and 1990;
- 20 percent during fiscal 1991; and
- 15 percent after June 30, 1991.

The tax rates under the New Coal Production Incentive Tax Credit were also reduced to conform with these rates.

MONTANA COAL SEVERANCE TAX COLLECTIONS

Fiscal Year
Ended June 30

1976	\$23,964,642
1977	35,906,057
1978	34,372,065
1979	42,689,164
1980	75,125,009
1981	70,415,074
1982	86,186,846
1983	80,044,981
1984	82,823,411
1985	91,748,855
1986	84,217,213
1987	76,546,593
1988	84,638,333
1989	58,565,583
1990	56,588,305
1991 (First Quarter)	14,444,751
Audit Settlement for 1980-84 Received in FY 1990	11,009,000
TOTAL THROUGH FIRST QUARTER, FISCAL YEAR 1991	\$1,009,285,343

**ALLOCATIONS OF COAL SEVERANCE TAX PROCEEDS
AS PROVIDED
IN SECTION 15-35-108, MONTANA CODE ANNOTATED**

(After amendments in 1989 regular session
and June 1989 special session)

Effective Beginning:

	<u>7/1/89</u>	<u>7/1/90</u>	<u>7/1/93</u>
Perm. Trust	50.000%	50.000%	50.000%
Hwy. Recon.	12.000	12.000	0.0
Local Impact	6.650	6.650	8.750
Education Trust	7.600	0.0	0.0
Schools Equal.	3.800	11.400	15.000
County Land Plan	0.380	0.380	0.500
Renewable Resource	0.475	0.475	0.625
Parks, Cultural	1.900	1.900	2.500
Libraries	0.380	0.380	0.500
Conser. Dist.	0.190	0.190	0.250
Water Development	0.475	0.475	0.625
Growth in Agric.	0.760	0.760	1.000
General Fund	15.390	15.390	20.250

**COAL PRODUCTION AND EMPLOYMENT
SINCE ENACTMENT OF SEVERANCE TAX**

<u>Year</u>	<u>Production</u>	
	<u>Million Tons</u>	<u>Employment</u>
1975	22.7	667
1976	27.2	753
1977	26.4	880
1978	26.4	1,230
1979	32.5	1,345
1980	30.0	1,390
1981	33.3	1,406
1982	27.8	1,282
1983	28.7	1,283
1984	33.1	1,308
1985	33.1	1,411
1986	33.7	1,327
1987	34.4	1,130
1988	38.9	1,124
1989	37.8	1,103

Sources: Production, Montana Department of Revenue; Employment, Montana Department of Labor and Industry

**EMPLOYMENT BY OCCUPATIONS
IN COAL INDUSTRY IN MONTANA
1987**

Managerial & Administrative	70
Professional & Technical	150
Clerical & Administrative Support	80
Service	10
Production, Construction, Operations, Maintenance, Materials Handling	800

Source: Occupational Employment Statistics of Montana
1987, Montana Department of Labor and Industry

**ENHANCING
THE
IN-STATE INVESTMENT
PROGRAM**

A Report to the
52nd Legislature
from the
Coal Tax Oversight Subcommittee

Prepared by Paul E. Verdon, Staff Researcher

Montana Legislative Council
Room 138, State Capitol
Helena, MT 59620

October, 1990

INTRODUCTION

House Bill No. 226 of the 51st Legislature, which became Chapter 94, Laws of 1989, was requested by the Coal Tax Oversight Subcommittee on behalf of the Board of Investments.

The intention of HB 226 was to relieve the Board of Investments of the obligation to report to each session of the Legislature

on potential uses of the coal tax trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present and future generations of Montanans while maintaining and improving a clean and healthful environment

and to transfer this duty to the Coal Tax Oversight Subcommittee.

Exercise of this duty is concomitant with the overall responsibility of the Subcommittee as expressed in Title 5, chapter 18, part 2, MCA.

This brief report conveys the Coal Tax Oversight Subcommittee's single recommendation to the 52nd Legislature under this charge.

RECOMMENDATION

With the objective of providing maximum prudent benefits for the people of the State of Montana from the resources available in the permanent coal tax trust fund, the Coal Tax Oversight Subcommittee, after having reviewed the constitutional and statutory proscriptions and requirements for use of the money deposited in the permanent trust, recommends passage by the 52nd Legislature and approval by the Governor of LC 15. The title to LC 15 provides in part:

an act generally revising the authority of the board of investments to invest the permanent coal tax trust fund; eliminating the authority of the board of investments to guarantee loans; eliminating the in-state investment fund; allowing the board of investments to invest up to 25 percent of the permanent coal tax trust fund in the Montana economy; eliminating the loan loss reserve fund; allowing an interest rate reduction incentive for job creation by small businesses; and allowing an additional service fee discount to financial institutions on certain small business loan participations.

The Subcommittee has determined that enactment of LC 15 will enhance the use of the in-state investment program by Montana's small business community and will enlarge the resources upon which Montana entrepreneurs can draw to nurture their endeavors for the economic betterment of the state.

The statutory modifications proposed in LC 15 will increase

manyfold the potential benefits that Montanans may realize from the wealth derived from the state's natural treasures.

**WIDENING THE ACCESS
TO THE
IN-STATE INVESTMENT PROGRAM**

At the second meeting of the Coal Tax Oversight Subcommittee during the 1989-90 interim, David Lewis, Executive Director of the State Board of Investments, presented that agency's proposals for the implementation of Chapter 94, Laws of 1989 (HB 226).

The Board of Investments informed the Subcommittee of its belief that the allocation to the in-state investment fund under 17-6-305, MCA, of 25% of all revenue deposited in the permanent coal tax trust fund is overly restrictive. If a larger share of the permanent trust balance were available for investment "in the Montana economy with special emphasis on investments in new or expanding locally owned enterprises", in the language of the statute, the Board believes it would be more likely to stimulate "the long-term benefit to the Montana economy", another objective stated in 17-6-305, MCA.

In reviewing the operations of the in-state investment fund, Subcommittee members reached a consensus that the program could be enhanced by:

- (1) opening one-fourth of the permanent trust, subject to the parameters imposed under the prudent expert principle, as a possible source of loans under the Montana In-State Investment Act of 1983;
- (2) encouraging lending institutions to originate loans, for eventual sale to the Board, to enterprises at the lower end of the scale of business magnitude whose loan requirements might otherwise be insufficient to warrant commercial interest; and

- (3) providing incentives for borrowers to increase wage rates for the jobs created.

Provisions in LC 15 are intended to achieve these objectives and to fulfill the statutory responsibility of the Coal Tax Oversight Subcommittee.

Other amendments were included to conform the statutes with judicial decisions prohibiting certain loan guarantees.

LC 15 Analysis

LC 15 repeals sections 17-5-1519, 17-5-1520, 17-6-306, and 17-6-315, MCA, to bring the statutes into compliance with judicial decisions that voided certain bonding practices. Under those sections:

- the Board of Investments was empowered to guarantee a loan, lease, or other credit arrangement funded under the Montana Economic Development Bond Act of 1983 and to create an economic development guaranty fund;
- 25% of the revenue deposited in the permanent coal tax trust fund since July 1, 1983, was allocated to the in-state investment fund; and
- service charges and a loan loss reserve fund for the in-state investment fund were established.

Sections 1 through 4 and section 13 of the bill amend MCA sections to strike implementations of the provisions of the sections repealed.

Section 5 eliminates the definition of "Montana in-state investment fund" to make one-fourth of the entire permanent trust fund balance available for loans rather than only 25% of the share of the coal severance tax proceeds allocated to the trust.

Section 6 eliminates the deposit into the in-state investment fund and allows the Board to invest up to 25% of the total trust fund in the Montana economy, subject to the prudent expert principle.

Sections 7 through 12 replace reference to the "in-state investment fund" in the statutes with reference to the "permanent coal tax trust fund" and eliminate references to bonding provisions repealed in Sections 1 through 4.

Section 14 eliminates the authority of the Board of Housing to lend money to the Board of Investments to establish a loan fund that was created under 17-5-1520, MCA, which this bill repeals.

Sections 15 and 16 also replace "in-state investment fund" with "permanent coal tax trust fund" in the Montana Capital Company Act.

Section 17 is a new section that allows an interest rate reduction to a borrower who uses the proceeds of a small business participation loan funded under the provisions of this act to create jobs employing Montana residents. The reduction may not apply to a loan participation of more than 1% of the permanent coal tax trust. The allowable job credit interest rate reduction will be 0.05% for each job employing Montana residents, up to a maximum reduction of 2.5%. The interest rate reduction will not be allowed for creation of a job that pays less than the state minimum wage. If the salary or wage of the job created exceeds the average weekly wage, the job credit interest rate reduction may be increased proportionately for each increment of 25% above the average weekly wage to a maximum of

two times the average weekly wage. Comparable reductions in the job credit interest rate are required for jobs created that offer earnings less than the average weekly wage.

Section 18 entitles a financial institution that originates a small business loan no larger than 0.05% of the balance of the coal tax trust to an additional service fee in the form of a discount equal to 0.5% of the board's participation in the loan.

Findings of the Coal Tax Oversight Subcommittee

In its considerations of the efficacy of the permanent coal tax trust as an instrument of economic development for the citizens of Montana and after reviewing the past performance of the in-state investment fund, the Coal Tax Oversight Subcommittee determined that the statutory revisions and innovations embodied in LC 15 merit enactment into law by the 52nd Legislature.

The Subcommittee found no justification for concern that the enlarged in-state lending pool created under LC 15 would jeopardize the financial stability of the permanent trust. The achievements of the Board of Investments in managing a multibillion dollar portfolio under the constraints of the prudent expert principle demonstrate that unbearable risk is not a necessary companion of investing for growth and income.

Although nominal risk must be recognized, the possibility of occasional default is an acceptable price to pay for the opportunity to spread the benefits of the in-state investment program among a larger segment of the state's citizenry in the form of more attractive interest rates for a readily available financial pool.

APPENDIX A

Proposed Legislation

LC0015

1 *** Bill No. *****
2 Introduced By *****
3 By Request of the Coal Tax Oversight Subcommittee
4
5 A draft for a bill entitled: "An act generally
6 revising the authority of the board of investments
7 to invest the permanent coal tax trust fund;
8 eliminating the authority of the board of
9 investments to guarantee loans; eliminating the
10 economic development guaranty fund and the in-state
11 investment fund; allowing the board of investments
12 to invest up to 25 percent of the permanent coal
13 tax trust fund in the Montana economy; eliminating
14 the loan loss reserve fund; authorizing Montana
15 capital companies to issue and sell debentures to
16 the permanent coal tax trust fund; allowing an
17 interest rate reduction incentive for job creation
18 by small businesses; allowing an additional service
19 fee discount to financial institutions on certain
20 small business loan participations; amending
21 sections 17-5-1506, 17-5-1525, 17-5-1526, 17-5-
22 1527, 17-6-302, 17-6-305, 17-6-308, 17-6-310, 17-6-
23 311, 17-6-314, 17-6-322, 90-3-101, 90-3-525, 90-6-
24 104, 90-8-102, and 90-8-305, MCA; and repealing
25 sections 17-5-1519, 17-5-1520, 17-6-306, and 17-6-

Proposed Legislation

1 315, MCA."

2

3 Be it drafted for sponsor approval

4

5 Section 1. Section 17-5-1506, MCA, is amended
6 to read:

7 "17-5-1506. Bonds and notes for projects and
8 major projects. (1) The board may by resolution
9 issue negotiable notes and bonds in a principal
10 amount as the board determines necessary to provide
11 sufficient funds for achieving any of its purposes,
12 including the payment of interest on notes and
13 bonds of the board, establishment of reserves to
14 secure the notes and bonds, including the reserve
15 funds created under 17-5-1515, and all other
16 expenditures of the board incident to and necessary
17 or convenient to carry out this part.

18 (2) The board may by resolution, from time to
19 time, issue notes to renew notes and bonds or to
20 pay notes, including interest, and whenever it
21 considers refunding expedient, refund any bonds by
22 the issuance of new bonds, whether or not the bonds
23 to be refunded have matured, or issue bonds partly
24 to refund bonds outstanding and partly for any of
25 its other purposes.

26 (3) Except as otherwise expressly provided by

Proposed Legislation

1 resolution of the board, every issue of its bonds
2 is an obligation of the board payable out of any
3 revenue, assets, or money of the board, subject
4 only to agreements with the holders of particular
5 notes or bonds pledging particular revenues,
6 assets, or money.

7 (4) The notes and bonds ~~shall~~ must be
8 authorized by resolutions of the board, bear a
9 date, and mature at the times the resolutions
10 provide. A note may not mature more than 5 years
11 from the date of its issue. A bond may not mature
12 more than 40 years from the date of its issue. The
13 bonds may be issued as serial bonds payable in
14 annual installments, as term bonds, or as a
15 combination thereof. The notes and bonds ~~shall~~ must
16 bear interest at a stated rate or rates or at a
17 rate or rate determination as stated, be in
18 denominations, be in a form, either coupon or
19 registered, carry registration privileges, be
20 executed in a manner, be payable in a medium of
21 payment, at places inside or outside the state, and
22 be subject to terms of redemption as provided in
23 resolutions. The notes and bonds of the board may
24 be sold at public or private sale, at prices above
25 or below par, as determined by the board, and in a
26 manner such that interest on the bonds is either

Proposed Legislation

1 exempt from or subject to federal income tax.

2 (5) The bonds issued under this part are
3 exempt from the Montana Securities Act, but copies
4 of all prospectus and disclosure documents must be
5 deposited with the state securities commissioner
6 for public inspection.

7 (6) The total amount of bonds secured under
8 17-5-1515 and ~~17-5-1519~~ outstanding at any one
9 time, except bonds as to which the board's
10 obligations have been satisfied and discharged by
11 refunding or bonds for which reserves for payment
12 or other means of payment have been provided, may
13 not exceed \$75 million."

14

15 Section 2. Section 17-5-1525, MCA, is amended
16 to read:

17 "17-5-1525. Bonds as legal investment. (1)
18 Bonds issued by the board under the provisions of
19 this part are securities in which all funds may be
20 legally and properly invested, including capital in
21 the control of or belonging to:

22 (a) public officers and public bodies of the
23 state and its political subdivisions;

24 (b) insurance companies;

25 (c) credit unions, building and loan

26 associations, investment companies, savings banks,

Proposed Legislation

1 banking associations, and trust companies;

2 (d) executors, administrators, trustees, and
3 other fiduciaries; and

4 (e) pension, profit-sharing, and retirement
5 funds.

6 (2) Bonds issued under 17-5-1505 through 17-5-
7 1718 and 17-5-1521 through 17-5-1529 are securities
8 ~~which~~ that may properly and legally be deposited
9 with and received by any state or municipal officer
10 or any agency or municipality of the state for any
11 purpose for which the deposit of bonds or
12 obligations of the state is now or may hereafter be
13 authorized by law."

14

15 Section 3. Section 17-5-1526, MCA, is amended
16 to read:

17 "17-5-1526. Procedure prior to financing
18 projects. (1) The board may finance projects, other
19 than major projects, under this part only when it
20 finds that:

21 (a) the financing is in the public interest
22 and is consistent with the legislative purposes and
23 findings set forth in 17-5-1502;

24 (b) the financing to be provided by the board
25 for a project does not exceed either \$800,000 or
26 90% of the cost or appraised value of the project,

Proposed Legislation

1 whichever is less;

2 (c) a financial institution will participate
3 in financing the project, either directly or
4 through a letter of credit, to the extent of at
5 least 10% of the financing to be provided by the
6 board;

7 (d) the financing for the project is insured
8 or guaranteed in whole or in part by a private or
9 governmental insurer or guarantor, ~~including but~~
10 ~~not limited to a guaranty by the board pursuant to~~
11 ~~17-5-1519;~~

12 (e) an applicant has submitted a statement
13 indicating any contracts to construct the projects
14 will require all contractors to give preference to
15 the employment of bona fide Montana residents, as
16 defined in 18-2-401, in the performance of the work
17 on the projects if their qualifications are
18 substantially equal to those of nonresidents;
19 "substantially equal qualifications" means the
20 qualifications of two or more persons among whom
21 the employer cannot make a reasonable determination
22 that the qualifications held by one person are
23 significantly better suited for the position than
24 the qualifications held by the other persons; and

25 (f) adequate provision is made in the loan
26 agreement, lease, or other credit arrangement

Proposed Legislation

1 regarding a project or projects being financed to
2 provide for payment of debt service on bonds of the
3 board issued to finance ~~such~~ the project or
4 projects, to create and maintain reserves therefor,
5 and to meet all costs and expenses of issuing and
6 servicing the bonds.

7 (2) In order to make the findings as described
8 in subsection (1)(a), a hearing must be conducted
9 in the following manner:

10 (a) the city or county in which the project
11 will be located must be notified; and the city and
12 county ~~must~~ shall, within 14 days after receipt of
13 the notice, notify the board if it elects to
14 conduct the hearing; or

15 (b) if no request for a local hearing is
16 received, the board may hold the hearing at a time
17 and place it prescribes.

18 (3) If the hearing required by subsection (2)
19 is conducted by a local government, the governing
20 body of the local government ~~must~~ shall notify the
21 board of its determination of whether the project
22 is in the public interest within 14 days of the
23 completion of the public hearing.

24 (4) When a hearing is required either locally
25 or at the state level, notice must be given, at
26 least once a week for 2 weeks prior to the date set

Proposed Legislation

1 for the hearing, by publication in a newspaper of
2 general circulation in the city or county where the
3 hearing will be held. The notice must include the
4 time and place of the hearing; the general nature
5 of the project; the name of the lessee, borrower,
6 or user of the project; and the estimated cost of
7 the project.

8 (5) The requirements of subsections (1)(b)
9 through (1)(d) do not apply to bonds that are not
10 secured by the ~~board's guarantee under 17-5-1519 or~~
11 ~~the~~ capital reserve account authorized by 17-5-
12 1515.

13 (6) The hearing requirements of subsections
14 (2) through (4) do not apply to projects financed
15 with bonds the interest on which is subject to
16 federal income taxes."

17

18 Section 4. Section 17-5-1527, MCA, is amended
19 to read:

20 "17-5-1527. Procedure prior to financing major
21 projects. (1) The board may finance major projects
22 under this part only when it finds that:

23 (a) the financing is in the public interest
24 and is consistent with legislative purposes and
25 findings;

26 (b) the financing to be provided by the board

Proposed Legislation

1 for a project does not exceed either \$10 million or
2 90% of the cost or appraised value of the project,
3 whichever is less;

4 (c) a financial institution will participate
5 in financing the project if the cost or appraised
6 value is less than \$1 million, either directly or
7 through a letter of credit, to the extent of at
8 least 10% of the financing to be provided by the
9 board, provided, however, that participation by a
10 financial institution in projects of over \$1
11 million is at the discretion of the board;

12 (d) the financing for the project is insured
13 or guaranteed in whole or in part by a private or
14 governmental insurer or guarantor, ~~including but~~
15 ~~not limited to a guaranty by the board pursuant to~~
16 ~~17-5-1519;~~

17 (e) any contracts to construct the projects
18 require all contractors to give preference to the
19 employment of bona fide Montana residents, as
20 defined in 18-2-401, in the performance of the work
21 on the projects if their qualifications are
22 substantially equal to those of nonresidents;
23 "substantially equal qualifications" means the
24 qualifications of two or more persons among whom
25 the employer cannot make a reasonable determination
26 that the qualifications held by one person are

Proposed Legislation

1 significantly better suited for the position than
2 the qualifications held by the other persons; and
3 (f) adequate provision is made in the loan
4 agreement, lease, or other credit arrangement
5 regarding a project or projects being financed to
6 provide for payment of debt service on bonds of the
7 board issued to finance ~~such~~ the project or
8 projects, to create and maintain reserves therefor,
9 and to meet all costs and expenses of issuing and
10 servicing the bonds.

11 (2) In order to make the findings as described
12 in subsection (1)(a), a hearing must be conducted
13 in the following manner:

14 (a) the city or county in which the project
15 will be located ~~shall~~ must be notified, and within
16 14 days ~~must~~ shall advise the board if it elects to
17 conduct the hearing; or

18 (b) if no request for a local hearing is
19 received, the board may hold the hearing at a time
20 and place it prescribes.

21 (3) If the hearing required by subsection (2)
22 is conducted by a local government, the governing
23 body of the local government ~~must~~ shall notify the
24 board of its determination of whether the project
25 is in the public interest within 14 days of the
26 completion of the public hearing.

Proposed Legislation

1 (4) When a hearing is required either locally
2 or at the state level, notice must be given, at
3 least once a week for 2 weeks prior to the date set
4 for the hearing, by publication in a newspaper of
5 general circulation in the city or county where the
6 hearing will be held. The notice must include the
7 time and place of the hearing; the general nature
8 of the project; the name of the lessee, borrower,
9 or user of the project; and the estimated cost of
10 the project.

11 (5) The requirements of subsections (1)(b)
12 through (1)(d) do not apply to bonds that are not
13 secured by ~~the board's guarantee under 17-5-1519 or~~
14 the capital reserve account authorized by 17-5-
15 1515.

16 (6) The hearing requirements of subsections
17 (2) through (4) do not apply to major projects
18 financed with bonds the interest on which is
19 subject to federal income taxes."
20

21 Section 5. Section 17-6-302, MCA, is amended
22 to read:

23 "17-6-302. Definitions. As used in this part,
24 unless the context requires otherwise, the
25 following definitions apply:

26 (1) "Board" means the board of investments

Proposed Legislation

1 created in 2-15-1808.

2 (2) "Capital company" means a Montana capital
3 company created pursuant to Title 90, chapter 8.

4 (3) "Clean and healthful environment" means an
5 environment that is relatively free from pollution
6 ~~which~~ that threatens human health, including as a
7 minimum, compliance with federal and state
8 environmental and health standards.

9 (4) "Employee-owned enterprise" means any
10 enterprise at least 51% of whose stock, partnership
11 interests, or other ownership interests is owned
12 and controlled by residents of Montana each of
13 whose principal occupation is as an employee,
14 officer, or partner of the enterprise.

15 (5) "Financial institution" includes but is
16 not limited to a state- or federally chartered bank
17 or a savings and loan association, credit union, or
18 development corporation created pursuant to Title
19 32, chapter 4.

20 (6) "Loan participation" means loans or
21 portions thereof bought from a financial
22 institution and does not include the purchase of
23 debentures issued by a capital company.

24 (7) "Locally owned enterprise" means any
25 enterprise 51% of whose stock, partnership
26 interests, or other ownership interests are owned

Proposed Legislation

1 and controlled by residents of Montana.

2 (8) "Long-term benefit to the Montana economy"
3 means an activity that strengthens the Montana
4 economy and that has the potential to maintain and
5 create jobs, increase per capita income, or
6 increase Montana tax revenues in the future to the
7 people of Montana, either directly or indirectly.

8 (9) "Montana economy" means any business
9 activity in the state of Montana, including those
10 which continue existing jobs or create new jobs in
11 Montana.

12 ~~(10) "Montana in-state investment fund" means~~
13 ~~the fund established by 17-6-306.~~

14 ~~(11)~~(10) "Service fees" means the fees normally
15 charged by a financial institution for servicing a
16 loan, including amounts charged for collecting
17 payments and remitting amounts to the fund."
18

19 Section 6. Section 17-6-305, MCA, is amended
20 to read:

21 "17-6-305. Investment of up to twenty-five
22 percent of the coal tax trust fund in the Montana
23 economy. (1) ~~Twenty-five percent of all revenue~~
24 ~~deposited after June 30, 1983, into~~ Subject to the
25 provisions of 17-6-201(1), the board shall endeavor
26 to invest up to 25% of the permanent coal tax trust

Proposed Legislation

1 fund established in 17-6-203~~(5)~~(6) and ~~15%~~ of the
2 ~~annual income and earnings on the Montana in-state~~
3 ~~investment fund appropriated to the coal severance~~
4 ~~tax permanent fund by 17-5-704(2)~~ shall be invested
5 in the Montana economy with special emphasis on
6 investments in new or expanding locally owned
7 enterprises.

8 (2) In determining the probable income to be
9 derived from investment of this revenue, the long-
10 term benefit to the Montana economy ~~shall~~ must be
11 considered.

12 (3) The legislature may provide additional
13 procedures to implement this section."
14

15 **Section 7.** Section 17-6-308, MCA, is amended
16 to read:

17 "17-6-308. Authorized investments. (1) Except
18 as provided in ~~subsection (4)~~ subsections (2) and
19 (3) and subject to the provisions of 17-6-201, the
20 Montana in-state investment permanent coal tax
21 trust fund must be invested as authorized by rules
22 adopted by the board. ~~For purposes of this section,~~
23 ~~"investment" includes the guaranty of loans or~~
24 ~~bonds in consideration for a fee, in lieu of the~~
25 ~~actual acquisition of such loans or bonds.~~

26 ~~(2) The board may use the in-state investment~~

Proposed Legislation

1 ~~fund to guarantee loans or bonds issued under the~~
2 ~~provisions of 17-5-1501 through 17-5-1529, Title~~
3 ~~17, chapter 5, part 16, or Title 90, chapter 7.~~
4 ~~Each guaranty must be given in consideration of a~~
5 ~~fee. The fees must be paid to the board. The~~
6 ~~guaranty must provide directly or by separate~~
7 ~~agreement that the board is fully subrogated to the~~
8 ~~rights of the obligee under the loan or bond. The~~
9 ~~board shall by rule establish the maximum ratio~~
10 ~~between guaranty funds available and loans or bonds~~
11 ~~to be guaranteed. The board may covenant in bond~~
12 ~~issues to maintain such ratio. Unless bonds issued~~
13 ~~to finance a project are secured by a common~~
14 ~~capital reserve account and a common guaranty fund,~~
15 ~~the maximum amount of the guaranty authorized by~~
16 ~~this section may not exceed \$3,000,000 with respect~~
17 ~~to the bonds or loans to finance the project.~~

18 ~~(3)(2)~~ The board may make loans from the in-
19 ~~state investment permanent coal tax trust fund to~~
20 ~~the capital reserve account created pursuant to 17-~~
21 ~~5-1515 and the guaranty fund created pursuant to~~
22 ~~17-5-1520 to establish balances or restore~~
23 ~~deficiencies therein in the account. The board may~~
24 ~~agree in connection with the issuance of bonds or~~
25 ~~notes secured by such the account or fund to make~~
26 ~~such the loans. Loans must be on such terms and~~

Proposed Legislation

1 conditions as the board determines and must be
2 repaid from revenues of the board realized from the
3 exercise of its powers under 17-5-1501 through 17-
4 5-1518 and 17-5-1521 through 17-5-1529, subject to
5 the prior pledge of the revenues to the bonds and
6 notes.

7 ~~(4)~~(3) The board shall allow the Montana board
8 of science and technology development provided for
9 in 2-15-1818 to administer \$7.5 million of the ~~in-~~
10 ~~state investment~~ permanent coal tax trust fund for
11 seed capital project loans pursuant only to the
12 provisions of Title 90, chapter 3. This authority
13 does not extend beyond June 30, 1994. Until such
14 time as the Montana board of science and technology
15 development makes a loan pursuant to those
16 provisions, the funds under its administration must
17 be invested by the board of investments pursuant to
18 the provisions of 17-6-201."

19

20 Section 8. Section 17-6-310, MCA, is amended
21 to read:

22 "17-6-310. No direct loans. (1) The state may
23 not use this revenue to make direct loans.

24 (2) ~~No money from the Montana in-state~~
25 ~~investment~~ The permanent coal tax trust fund may
26 not be used to make direct loans to individual

Proposed Legislation

1 borrowers. The purchase of debentures issued by a
2 capital company and loans or portions thereof of
3 loans originated by a financial institution that
4 are sold to the trust are not direct loans."

5

6 Section 9. Section 17-6-311, MCA, is amended
7 to read:

8 "17-6-311. Limitation on size of investments.

9 (1) Except as provided in subsections (2) and (3),
10 no investment may be made that will result in any
11 one business enterprise or person receiving a
12 benefit from or incurring a debt to the ~~Montana in-~~
13 ~~state investment~~ permanent coal tax trust fund the
14 total current accumulated amount of which exceeds
15 ~~10%~~ 1% of the ~~prior fiscal year's coal severance~~
16 ~~tax revenue deposited in the Montana in-state~~
17 ~~investment~~ permanent coal tax trust fund.

18 (2) Subsection (1) does not limit the board's
19 authority to ~~guarantee loans or bonds or~~ make loans
20 to the capital reserve account ~~and guaranty fund~~ as
21 provided in 17-6-308(2) ~~and (3)~~.

22 (3) Subsection (1) does not apply to the
23 purchase of debentures issued by a capital company;
24 however, the total amount of such debentures
25 purchased by the board may not exceed ~~10%~~ 1% of the
26 ~~Montana in-state investment~~ permanent coal tax

Proposed Legislation

1 trust fund at the time of purchase."

2

3 Section 10. Section 17-6-314, MCA, is amended
4 to read:

5 "17-6-314. Rate of return. In calculating the
6 rate of return for any Montana investment to be
7 made from the ~~Montana in-state investment~~ permanent
8 coal tax trust fund, the board shall consider the
9 long-term benefit to the Montana economy and the
10 additional service fee discount provided for in
11 [section 18]."

12

13 Section 11. Section 17-6-322, MCA, is amended
14 to read:

15 "17-6-322. Report. The board shall include in
16 its annual report a section on the results of the
17 previous year's operations of the ~~in-state~~
18 investment in the Montana economy from the
19 permanent coal tax trust fund, as required in 17-6-
20 305, including:

21 (1) financial statements audited by
22 independent auditors;

23 (2) a summary report of loan activity; and

24 (3) a comparison of the ~~Montana in-state~~
25 ~~investment fund's~~ performance of the investments in
26 the Montana economy in relation to the purposes

Proposed Legislation

1 contained in 17-6-303."

2

3 Section 12. Section 90-3-101, MCA, is amended
4 to read:

5 "90-3-101. Short title -- findings -- purpose.

6 (1) This chapter may be cited as the "Montana
7 Science and Technology Financing Act".

8 (2) The legislature finds and declares that:

9 (a) it is the policy of the state of Montana
10 to promote the health, safety, and general welfare
11 of all the people of the state;

12 (b) this policy will be furthered through
13 strengthening and diversifying the state's economy
14 by facilitating a public sector-private sector
15 partnership to encourage scientific and
16 technological development within the state in order
17 to keep pace with a changing economic structure and
18 to create new jobs and expand business
19 opportunities;

20 (c) this strengthening and diversification
21 will be fostered by assisting in the acceleration
22 of development of technology in the state through
23 participation with the private sector in the
24 financing of science and technology development
25 projects that have significant potential for
26 commercialization in Montana;

Proposed Legislation

1 (d) the ~~in-state investment~~ permanent coal tax
2 trust fund created through adoption of Initiative
3 Measure No. 95 by the voters of Montana in 1982 by
4 Article IX, section 5, of the Montana constitution
5 is the appropriate source for providing financing
6 programs for the development of new and expanding
7 businesses in Montana;

8 (e) the Science and Technology Development
9 Board Seed Capital Bond Act contained provisions
10 that were found to be unconstitutional by the
11 Montana supreme court, and the 51st legislature of
12 the state of Montana must remedy those defects
13 through legislation; and

14 (f) the Montana science and technology
15 development board has demonstrated success in
16 forging a partnership among the private sector, the
17 university community, and government, and this
18 success should be continued through an ongoing
19 legislative commitment to the board's programs.

20 (3) The purposes of this chapter are to:

21 (a) strengthen and diversify Montana's economy
22 by establishing a public-private sector partnership
23 to encourage scientific and technological
24 development within the state in order to keep pace
25 with a transforming economic structure and to
26 create new jobs and expand small business

Proposed Legislation

1 opportunities;

2 (b) provide a funding source for the board to
3 make seed capital project loans;

4 (c) provide a mechanism for the board to use
5 in making seed capital project loans; and

6 (d) provide a mechanism for the board to use
7 in making research and development project loans,
8 the funding source of which will be provided by
9 separate legislation."

10

11 Section 13. Section 90-3-525, MCA, is amended
12 to read:

13 "90-3-525. Deposit of payback -- seed capital
14 and research and development project loans. (1) The
15 payback of principal and earnings on a seed capital
16 project loan executed under this chapter ~~must be~~
17 ~~administered pursuant to section 17-6-306.~~

18 ~~(2)~~ The or the payback of principal and
19 earnings on a research and development project loan
20 must be deposited to the state special revenue fund
21 to the credit of the science and technology
22 development account created in 90-3-305.

23 ~~(3)~~ (2) All paybacks of principal and earnings
24 to the board from any agreements executed by the
25 board between July 1, 1985, and March 31, 1989,
26 must be deposited to the state special revenue fund

Proposed Legislation

1 to the credit of the science and technology
2 development account created in 90-3-305 for use by
3 the board. The paybacks include all those received
4 after January 1, 1989."

5

6 Section 14. Section 90-6-104, MCA, is amended
7 to read:

8 "90-6-104. General powers of the board. The
9 board may:

10 (1) sue and be sued;

11 (2) have a seal;

12 (3) adopt all procedural and substantive rules
13 necessary for the administration of this part,
14 including rules concerning its mortgage,
15 construction, and temporary lending programs;

16 (4) make contracts, agreements, and other
17 instruments necessary or convenient for the
18 exercise of its powers under this part;

19 (5) enter into agreements or other
20 transactions with any federal, state, or local
21 governmental agency, any persons, and any domestic
22 or foreign partnership, corporation, association,
23 or organization in carrying out this part;

24 (6) enter into agreements under its rules with
25 sponsors, mortgagors, or lending institutions for
26 the purpose of regulating the analysis, planning,

Proposed Legislation

1 development, and management of housing developments
2 financed in whole or in part by the proceeds of its
3 loans or securities and mortgage purchase programs;

4
5 (7) enter into agreements or other
6 transactions with, and accept grants and the
7 cooperation of, any governmental agency in
8 furtherance of this part, including but not limited
9 to the development, leasing, maintenance,
10 operation, and financing of any housing
11 development;

12 (8) accept services, appropriations, gifts,
13 grants, bequests, and devises and utilize or
14 dispose of them in carrying out this part;

15 (9) acquire real or personal property or any
16 right, interest, or easement therein by gift,
17 purchase, transfer, foreclosure, lease, or
18 otherwise; hold, sell, assign, lease, encumber,
19 mortgage, or otherwise dispose thereof; hold, sell,
20 assign, or otherwise dispose of any mortgage or
21 loan owned by it or in its control or custody;
22 release or relinquish any right, title, claim,
23 interest, easement, or demand, however acquired,
24 including any equity or right of redemption; do any
25 of the foregoing by public or private sale, with or
26 without public bidding; commence any action to

Proposed Legislation

1 protect or enforce any right conferred upon it by
2 any law, mortgage, contract, or other agreement;
3 bid for and purchase property at any foreclosure or
4 other sale or acquire or take possession of it in
5 lieu of foreclosure; and operate, manage, lease,
6 dispose of, and otherwise deal with such property
7 in any manner necessary or desirable to protect its
8 interests and the holders of its bonds or notes and
9 consistent with any agreement with such holders;

10 (10) service and contract and pay for the
11 servicing of loans;

12 (11) provide general technical services in the
13 analysis, planning, design, processing,
14 construction, rehabilitation, and management of
15 housing developments for persons and families of
16 lower income where these services are not otherwise
17 available;

18 (12) provide general consultative services to
19 housing developments for persons and families of
20 lower income and the residents thereof with respect
21 to counseling and training in management, home
22 ownership, and maintenance where these services are
23 not otherwise available;

24 (13) invest any funds not required for
25 immediate use, subject to any agreements with its
26 bondholders and noteholders, as provided in Title

Proposed Legislation

1 17, chapter 6, except all investment income from
2 funds of the board less the cost for investment as
3 prescribed by law ~~shall~~ must be deposited in the
4 housing authority enterprise fund;

5 (14) sell its loans or securities to the
6 federal national mortgage association or any other
7 agency or instrumentality of the United States and
8 invest in the capital stock issued by the
9 association or other agency or instrumentality to
10 the extent, if any, required as a condition of ~~such~~
11 the sale;

12 (15) consent, whenever it ~~deems~~ considers it
13 necessary or desirable in fulfilling its purposes,
14 to the modification of the rate of interest, time,
15 and payment of any installment of principal or
16 interest, security, or any other term of any
17 contract, mortgage, mortgage loan, mortgage loan
18 commitment, construction loan, advance contract, or
19 agreement of any kind, subject to any agreement
20 with bondholders and noteholders;

21 (16) collect reasonable interest, fees, and
22 charges in connection with making and servicing its
23 loans, notes, bonds, commitments, and other
24 evidences of indebtedness and in connection with
25 providing technical, consultative, and project
26 assistance services. Interest fees and charges

Proposed Legislation

1 ~~shall be~~ are limited to the amounts required to pay
2 the costs of the board, including operating and
3 administrative expenses and reasonable allowances
4 for losses ~~which~~ that may be incurred.

5 (17) procure insurance against any loss in
6 connection with its mortgages and mortgage loans
7 and other assets or property in amounts and from
8 insurers as the board considers desirable or
9 necessary;

10 (18) act as agent for governmental agencies
11 concerning acquisition, construction, leasing,
12 operation, or management of a housing development;

13 (19) issue notes and bonds and replace lost,
14 destroyed, or mutilated notes and bonds; and

15 (20) develop special programs for housing
16 developments for veterans of the armed forces of
17 the United States who are unable to acquire safe
18 and sanitary housing through lending institutions
19 by conventional means; ~~and~~

20 ~~(21) lend money to the board of investments to~~
21 ~~establish the Montana economic development guaranty~~
22 ~~fund created by 17-5-1520."~~

23

24 Section 15. Section 90-8-102, MCA, is amended
25 to read:

26 "90-8-102. Declaration of policy. (1) The

Proposed Legislation

1 legislature finds and declares that:

2 (a) economic insecurity due to unemployment is
3 a serious menace to the health, safety, and general
4 welfare of not only the affected people but of the
5 people of the entire state;

6 (b) involuntary unemployment, with its
7 resulting burden of indigency, falls with crushing
8 force upon unemployed workers and ultimately on the
9 state itself in the form of public assistance and
10 unemployment compensation payments; and

11 (c) unemployment causes a migration of Montana
12 workers and families seeking jobs and establishing
13 homes elsewhere, which deprives the state of its
14 most valuable resource, its people, and reduces the
15 tax base of local governments, impairing their
16 ability to provide basic services.

17 (2) (a) The legislature further finds that the
18 best method of combating unemployment and
19 protecting Montana against the loss of its people
20 is by promoting, stimulating, developing,
21 rehabilitating, and revitalizing the business
22 prosperity and economic welfare of the state and
23 its citizens.

24 (b) To accomplish this goal, the legislature
25 seeks to encourage the formation of venture and
26 equity capital in Montana for use in diversifying,

Proposed Legislation

1 strengthening, and stabilizing the Montana economy
2 by increasing Montana employment and business
3 opportunities while protecting the people's
4 constitutional right to a clean and healthful
5 environment.

6 (3) The legislature further finds that:

7 (a) private investment of venture and equity
8 capital in the Montana economy will be encouraged
9 and promoted by making tax credits available to
10 taxpayers investing in Montana capital companies;

11 (b) demands on state revenues restrict the
12 financial ability of the state to make unlimited
13 tax credits available for investment purposes and
14 require that the state place reasonable limits on
15 the total amount of tax credits to be made
16 available for investment incentive;

17 (c) establishment of a rational tax credit
18 program ~~which~~ that gives priority to investments in
19 capital companies in the order in which they are
20 qualified will encourage prompt private investment
21 in Montana businesses.

22 (4) The legislature further finds that use of
23 money from the Montana ~~in-state investment fund~~
24 ~~established by 17-6-306~~ permanent coal tax trust
25 fund to purchase debentures issued by a capital
26 company will promote the business prosperity and

Proposed Legislation

1 economic welfare of the state and its citizens."

2

3 Section 16. Section 90-8-305, MCA, is amended
4 to read:

5 "90-8-305. Sale of debentures. (1) A qualified
6 Montana capital company is authorized to issue and
7 sell debentures to the ~~in-state investment~~
8 permanent coal tax trust fund ~~established in 17-6-~~
9 ~~306.~~

10 (2) Proceeds received by a qualified Montana
11 capital company from the sale of debentures
12 authorized in subsection (1) must be invested in
13 accordance with the provisions of 90-8-301, except
14 that the time periods for making qualified
15 investments must be calculated from the date the
16 company sells the debentures to the ~~in-state~~
17 ~~investment~~ permanent coal tax trust fund."

18

19 NEW SECTION. Section 17. Job credit interest
20 rate reduction for small business loan
21 participations. (1) A borrower who uses the
22 proceeds of a small business loan participation
23 funded under the provisions of this part to create
24 jobs employing Montana residents is entitled to a
25 job credit interest rate reduction for each job
26 created to employ a Montana resident over a 2-year

Proposed Legislation

1 period. The date of the formal written loan
2 application to the financial institution is the
3 beginning date for counting the number of jobs
4 created. The job credit interest rate reduction may
5 not apply to a loan participation of more than 1%
6 of the total of the permanent coal tax trust fund
7 determined at the end of the last completed fiscal
8 year. The job credit interest rate reduction is
9 equal to 0.05% for each job created to employ a
10 Montana resident up to a maximum interest rate
11 reduction of 2.5%.

12 (2) If the salary or wage of the job created:

13 (a) exceeds the average weekly wage, as
14 defined in 39-71-116, the amount of the job credit
15 interest rate reduction may be increased
16 proportionately for each increment of 25% above the
17 average weekly wage to a maximum of two times the
18 average weekly wage; or

19 (b) is less than the average weekly wage, as
20 defined in 39-71-116, the job credit interest rate
21 reduction is reduced proportionately for each 25%
22 increment below the average wage.

23 (3) A job credit interest rate reduction may
24 not be allowed for a job created by the borrower
25 using the proceeds of the loan for which the salary
26 or wage is less than the minimum wage provided for

Proposed Legislation

1 in 39-3-409.

2 (4) No job credit will be given unless one
3 whole job is created.

4 (5) To qualify for the job credit interest
5 reduction, the borrower shall provide satisfactory
6 evidence of the creation of jobs and make
7 application in writing, through its financial
8 institution, to the board when the loan is
9 delivered to the board or not later than 45 days
10 after the first and second anniversary dates of the
11 loan.

12

13 NEW SECTION. Section 18. Incentive to
14 financial institution for small business loan
15 participation. A financial institution that
16 originates a small business loan no larger than
17 0.05% of the balance of the Montana permanent coal
18 tax trust fund at the end of the last completed
19 fiscal year is entitled to an additional service
20 fee in the form of a discount equal to 0.5% of the
21 board's participation in the loan. The board shall
22 consider the additional service fee discount to the
23 financial institution as part of the rate of return
24 provided in 17-6-314.

25

26 NEW SECTION. Section 19. Repealer. Sections

Proposed Legislation

1 17-5-1519, 17-5-1520, 17-6-306, and 17-6-315, MCA,
2 are repealed.

3

4 NEW SECTION. Section 20. Saving clause.

5 (Standard language, see Bill Drafting Manual,
6 section 4-20.)

7

8 NEW SECTION. Section 21. Severability.

9 (Standard language, see Bill Drafting Manual,
10 section 4-21.)

11

12 NEW SECTION. Section 22. Codification

13 instruction. [Sections 17 and 18] are intended to
14 be codified as an integral part of Title 17,
15 chapter 6, part 3, and the provisions of Title 17,
16 chapter 6, part 3, apply to [sections 17 and 18].

17

18

-END-

150 copies of this public document were published at an estimated cost of \$2.66 per copy, for a total cost of \$399.00 which includes \$399.00 for printing and \$.00 for distribution.